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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of: KAZUYUKI NAKATA CASE NO: AD-6705

APPLICATION NO.: 09/890,028 GROUP ART UNIT: 1714

FILED: JULY 24, 2001

EXAMINER: NILAND, PATRICK DENNIS

FOR: AQUEOUS DISPERSION COMPOSITION AND MANUFACTURING  
METHOD FOR THE COMPOSITION

APPEAL BRIEF UNDER 37 C.F.R. 1.192

Commissioner for Patents

P. O. Box 1450

Arlington, VA 22313-1450

Sir:

In support of the Notice Of Appeal, concerning the above-identified application, filed on December 5, 2003 the following Appellant's brief is filed herein in triplicate. An oral hearing is requested. Please charge any fee associated with this Appeal Brief to E.I. du Pont de Nemours and Company Deposit Account 04-1928.

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of an ethylene-methacrylic acid copolymer containing 15-35 wt% methacrylic acid in water to achieve a stable, uniform, and alkali metal free aqueous dispersion.

Third Issue: Is there sufficient evidence of unexpected results in the present specification to establish a basis for over coming a *prima facie* showing of obviousness?

Factually the lack of long-term stability of the ethylene-methacrylic acid copolymer water dispersion at 75% ammonia loading and 100% ammonia loading (i.e., corresponding compositions according to the teachings found in the primary reference Best) is presented in Comparative Example 1 through 5. Application Example 1 through 3 involving 130% loading of ammonia are shown to be stable for sustained period of time. The teaching of the initial addition of excess ammonia to an organic solvent dispersion of acrylic polymer and subsequent replacing of ammonia during azeotropic distillation and inversion is a short lived process with no creditable implication of long term stability of the claimed ethylene-methacrylic acid dispersion. The data clearly constitutes a showing of unexpected results and the act of combining the two references to reject all claims is pure hindsight prompted by Applicant's disclosure.

In view of the above arguments it is felt that all claim are allowable and as such reversal and withdrawal of the Examiner's rejection under 35 U.S.C. 103(a) is requested.

Respectfully submitted,



ROBERT B. STEVENSON

Registration No. 26,039

Telephone: (302) 992-6824

Facsimile: (302) 992-3257

for

CRAIG H. EVANS

Attorney for Applicant(s)

Registration No. 31,825

Telephone: (302) 992-3219

Facsimile: (302) 992-3257

Dated:

